

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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JOSHUA GAINOUS,

Plaintiff,

19 **CIVIL** 10599 (BCM)

-v-

JUDGMENT

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

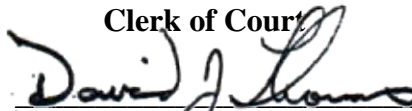
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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated October 18, 2021, Because the ALJ violated the treating physician rule and improperly substituted her own lay opinion as to plaintiff's IQ for that of the medical professionals who administered the WAIS-IV and interpreted its results, plaintiff's motion (Dkt. No. 16) is GRANTED, the Commissioner's motion (Dkt. No. 18) is DENIED, and this action is REMANDED for further proceedings.

On remand, should the ALJ once again reject or discount the opinions of plaintiff's treating physicians, she should "comprehensively" set forth the reasons for the weight assigned to those opinions and explicitly consider the factors set forth in 20 C.F.R. § 416.927(c)(2)(i)-(ii). Should she once again reject or discount the results of plaintiff's most recent IQ testing, she should explain her reasoning with reference to competing test results or qualified medical opinions, rather than rely on her own lay observations or interpretation of the non-medical evidence. In addition, the ALJ should consider Listing 12.05 at step three and – in the event she determines that plaintiff's impairments do not meet or medically equal any relevant listing – reconsider her formulation of his RFC; accordingly, the case is closed.

Dated: New York, New York
October 19, 2021

RUBY J. KRAJICK

BY: 
Clerk of Court
Deputy Clerk